

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**TERESA DAWN KINNETT**

664 Mary Evelyn Drive  
San Jose, CA 95123

Registered Nurse License No. **642540**

Respondent

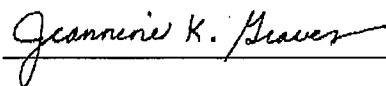
Case No. 2011-284

**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **March 1, 2011.**

IT IS SO ORDERED **March 1, 2011.**



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
Deputy Attorney General  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-284

13 **TERESA DAWN KINNETT**  
664 Mary Evelyn Drive  
14 San Jose, CA 95123  
Registered Nurse License No. 642540  
15 Respondent.

16 **STIPULATED SURRENDER OF**  
17 **LICENSE AND ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
19 proceeding that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Interim Executive Officer of the  
22 Board of Registered Nursing. She brought this action solely in her official capacity and is  
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
24 by Judith J. Loach, Deputy Attorney General.

25 2. Teresa Dawn Kinnett ("Respondent") is representing herself in this proceeding and  
has chosen not to exercise her right to be represented by counsel.

26 3. On or about August 6, 2004, the Board of Registered Nursing issued Registered  
27 Nurse License No. 642540 to Respondent. The Registered Nurse License was in full force and  
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1 effect at all times relevant to the charges brought in Accusation No. 2011-284 and will expire on  
2 April 30, 2012, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2011-284 was filed before the Board of Registered Nursing  
5 ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The  
6 Accusation and all other statutorily required documents were properly served on Respondent on  
7 October 4, 2010. Respondent timely filed her Notice of Defense contesting the Accusation.  
8 A copy of Accusation No. 2011-284 is attached as Exhibit A and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in  
11 Accusation No. 2011-284. Respondent also has carefully read, and understands the effects of this  
12 Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the right to a  
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
15 her own expense; the right to confront and cross-examine the witnesses against her; the right to  
16 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to  
17 compel the attendance of witnesses and the production of documents; the right to reconsideration  
18 and court review of an adverse decision; and all other rights accorded by the California

19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
21 every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation  
24 No. 2011-284, agrees that cause exists for discipline and hereby surrenders her Registered Nurse  
25 License No. 642540 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation she enables the Board to issue  
27 an order accepting the surrender of her Registered Nurse License without further process.

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CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 642540, issued to Respondent Teresa Dawn Kinnett, is surrendered and accepted by the Board of Registered Nursing.

1. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent.

1 This stipulation constitutes a record of the discipline and shall become a part of Respondent's  
2 license history with the Board.

3 2. Respondent shall lose all rights and privileges as a Registered Nurse in California as  
4 of the effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board her pocket license, and if one was  
6 issued, her wall license certificate on or before the effective date of the Decision and Order.

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
8 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must  
9 comply with all the laws, regulations and procedures for reinstatement of a revoked license in  
10 effect at the time the petition is filed, and all of the charges and allegations contained in  
11 Accusation No. 2011-284 shall be deemed to be true, correct and admitted by Respondent when  
12 the Board determines whether to grant or deny the petition.

13 5. If Respondent should ever apply or reapply for a new license or certification, or  
14 petition for reinstatement of a license, by any other health care licensing agency in the State of  
15 California, all of the charges and allegations contained in Accusation, No. 2011-284 shall be  
16 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of  
17 Issues or any other proceeding seeking to deny or restrict licensure.

18 6. Respondent shall not apply for licensure or petition for reinstatement for two (2)  
19 years from the effective date of the Board of Registered Nursing's Decision and Order.

20 7. Upon reinstatement of the license, Respondent shall pay to the Board costs associated  
21 with its investigation and enforcement pursuant to Business and Professions Code section 125.3  
22 in the amount of One Thousand, Eight Hundred and Forty Two Dollars (\$1,842.00). Respondent  
23 shall be permitted to pay these costs in a payment plan approved by the Board.

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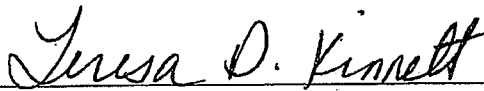
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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 11-30-10

  
TERESA DAWN KINNETT  
Respondent


ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: DECEMBER 20, 2010

Respectfully submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General

  
JUDITH J. LOACH  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. 2011-284**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
Deputy Attorney General  
4 State Bar No. 162030  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480  
E-mail: Judith.Loach@doj.ca.gov  
7 Attorneys for Complainant

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **TERESA DAWN KINNETT**  
14 **aka TERESA RUSSELL**  
15 **664 Mary Evelyn Drive**  
**San Jose, CA 95123**  
16 **Registered Nurse License No. 642540**

17 Respondent.

Case No. **2011-284**  
**ACCUSATION**

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs.

23 2. On or about August 6, 2004, the Board of Registered Nursing issued Registered  
24 Nurse License Number 642540 to Teresa Dawn Kinnett, aka Teresa Russell ("Respondent"). The  
25 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on April 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

RELEVANT STATUTES AND REGULATIONS

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code provides, in pertinent part, that an expired license may be renewed or reinstated within eight years.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

...

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it."

...

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this

chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

...

(e) "Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient or other record pertaining to the substances described in subdivision (a) of this section."

8. Code section 4060 states, in pertinent part:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052...

9. Code section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a -----," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use

or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4060.

10. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . ."

11. Section 2770.11 of the Code states:

"(a) Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation program designed by the committee and approved by the program manager. Any failure to comply with the provisions of a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

(b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all diversion records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding."

#### COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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STATEMENT OF FACTS

13. At all relevant times herein, Respondent was employed as a Registered Nurse at El Camino Hospital in Mountain View, California.

14. On or about July 14, 2008, Respondent called in or caused to be called in under her name, a fraudulent prescription for 30 tablets of Vicodin 500 milligrams.<sup>1</sup> The prescription was called into Walgreen's Pharmacy located at 1660 S. Winchester Boulevard, in Campbell, California.

15. On July 17, 2008, Respondent picked up the Vicodin that had been called in to the above-referenced Walgreen's Pharmacy.

16. On July 19, 2008, Respondent met with Agent M. Rivera of the Campbell Police Department at which time she turned over the bottle of Vicodin that had been fraudulently obtained from Walgreen's Pharmacy on July 17, 2008. The bottle contained 10 tablets of Vicodin 500 milligrams. Respondent admitted that she was addicted to Vicodin.

RESPONDENT'S TERMINATION FROM BOARD'S DIVERSION PROGRAM

17. On or about August 21, 2008, Respondent entered the Board's diversion program. However, due to her non-compliance with the recovery contract, failure to maintain contact with the diversion program and decision to resume employment as a registered nurse, Respondent was terminated from the program as a public safety risk on July 15, 2009.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Wrongfully Obtaining Controlled Substance  
and/or Dangerous Drug)

18. Respondent's license is subject to discipline for unprofessional conduct under Code section 2762, subdivision (a) and, in that she wrongfully obtained Vicodin by fraud, deceit,

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<sup>1</sup> "Vicodin" is a brand of Hydrocodone Bitartrate, a Schedule II controlled substance as provided by Health and Safety Code section 11055(b)(1)(j), and classified as a dangerous drug pursuant to Code section 4022.

1 misrepresentation, subterfuge, or the concealment of material facts by calling in or having called  
2 in a false prescription for Vicodin in violation of Health and Safety Code section 11173,  
3 subdivision (a), as set forth above in paragraphs 14 through 16.

4 SECOND CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct - Wrongfully Possessing Controlled Substance  
6 and/or Dangerous Drug)

7 19. Respondent's license is subject to discipline for unprofessional conduct under Code  
8 section 2762, subdivision (a), in that she wrongfully possessed Vicodin without a valid  
9 prescription in violation of Code section 4060, as set forth above in paragraphs 14 through 16.

10 THIRD CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct - Wrongfully Prescribe Controlled Substance  
12 and/or Dangerous Drug)

13 20. Respondent's license is subject to discipline for unprofessional conduct under Code  
14 section 2762, subdivision (a), in that she wrongfully prescribed or had prescribed for her use  
15 Vicodin as set forth above in paragraphs 14 through 16.

16 FOURTH CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct -Wrongfully Self-Administer a Controlled Substance  
18 and/or Dangerous Drug)

19 21. Respondent's license is subject to discipline for unprofessional conduct under Code  
20 section 2762, subdivision (b), in that she wrongfully administered Vicodin to herself as set forth  
21 above in paragraphs 14 through 16.

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Board of Registered Nursing issue a decision:

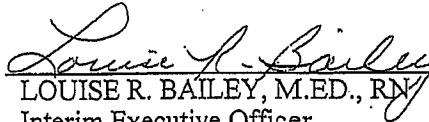
25 1. Revoking or suspending Registered Nurse License Number 642540, issued to Teresa  
26 Dawn Kinnett, aka Teresa Russell.

1        2.    Ordering Teresa Dawn Kinnett, aka Teresa Russell, to pay the Board of Registered  
2    Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to  
3    Business and Professions Code section 125.3.

4        3.    Taking such other and further action as deemed necessary and proper.

5    DATED: \_\_\_\_\_  
6

10/4/10



LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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